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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/510,124	10/04/2004	Anders Dahlberg	HPX0088-PCT	6608
909 7590 06/16/2008 PILLSBURY WINTHROP SHAW PITTMAN, LLP P.O. BOX 10500 MCLEAN, VA 22102				
EXAMINER				
DENTER, CLARK F				
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
06/16/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/510,124

Applicant(s)

DAHLBERG, ANDERS

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 and 13-21 is/are pending in the application.
4a) Of the above claim(s) 6-10 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 13-21 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 October 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 21, 2008 has been entered.

Drawings

2. The drawings are objected to because of the following informalities:

In Figure 5, the upper surface of 222 (which is located below tool 40) is drawn incorrectly and should be spaced and parallel from the lower surface of tool 40 (e.g., see Fig. 4); also, the lead line for numeral 218 is inaccurate and should point to the upper surface of 222.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 14-17 are objected to because of the following informalities:

In claim 14, line 2, the recitation "a cylindrical recess" is not sufficiently clear as to whether it is further defining the recess set forth in claim 13 or is defining another recess.

Appropriate correction is required.

Claim Rejections - 35 USC § 112, 1st paragraph

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 20 and 21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 20, the original disclosure does not appear to provide support for the recitation "wherein the fixed crosscutting tool has curved edge surfaces that are fitted into said curved supporting surfaces" as set forth in lines 1-2. Rather, support is provided for the curved edge surfaces 53A-D of the fixed tool being fitted into the curved support surface of the recess 219.

Regarding claim 21, the original disclosure does not appear to provide support for the recitation "wherein the movable crosscutting tool has curved edge surfaces in contact with said recess" as set forth in lines 1-2. Rather, support is provided for the curved edge surfaces 43A-D of the movable tool being fitted into the curved support surfaces 218 of portion 222.

Claim Rejections - 35 USC § 112, 2nd paragraph

6. Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 19, line 2, "said material thickness" is vague as to which one.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 13-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lindell, pn 4,470,330 in view of Funke, pn 3,391,591 and Winters, pn 1,318,249.

Regarding claims 13-17 and 20, Lindell discloses a device with almost every structural limitation of the claimed invention including:

a striking unit (e.g., 20) comprising a striking piston;

a tool housing (e.g., 25, and alternately 25, 27);

a damper unit (e.g., 53, 55);

a movable crosscutting tool (e.g., 26 and/or the circular tool in the center thereof) movably arranged within said tool housing;

a fixed crosscutting tool (e.g., 27 and/or the circular tool in the center thereof) fixedly arranged within said tool housing;

said striking piston arranged to administer a force to the movable crosscutting tool;

said fixed crosscutting tool arranged to exert a detaining force upon the workpiece;

said damper unit constructed and arranged to brake the striking motion of said movable crosscutting tool, and

wherein the tool housing has at least two supporting surfaces for positioning said movable crosscutting tool, wherein a recess (e.g., as shown in Fig. 3 between the surfaces of 32 through which 30 extends) is constructed and arranged between said supporting surfaces to provide space for movement of said striking piston therein;

[portion of claim 14] wherein said recess is designed for arrangement of said fixed crosscutting tool inside said tool housing (e.g., as shown in Figs. 2 and 3).

[claim 15 (from 14)] wherein said recess is disposed in a homogenous base element belonging to said tool housing (e.g., as shown in Figs. 2 and 3);

[claim 16 (from 15)] wherein an axially displaceable adjusting mechanism (e.g., 38) is disposed coaxially with said cylindrical recess for axially adjustable positioning of said fixed crosscutting tool inside said recess;

[claim 17 (from 15)] wherein a supporting member for said damper unit is designed to be anchored directly to said base element.

Lindell lacks:

[from claim 13] said supporting surfaces being curved and having a same radius, and wherein said movable crosscutting tool has curved edge surfaces in contact with said curved supporting surfaces of said tool housing, said curved edge surfaces having a substantially similar radius as said curved supporting surfaces to assist in alignment of said tool device;

[from claim 14] wherein the tool housing is provided with a cylindrical recess having a same centre line and said same radius as said supporting surfaces;

[claim 20] wherein said fixed crosscutting tool has curved edge surfaces that are fitted into said curved supporting surfaces of said tool housing, said curved edge surfaces having a substantially similar radius as said curved supporting surfaces.

Regarding claim 13, Lindell discloses a movable cutting tool having curved surfaces but lacks corresponding curved surfaces on the tool support. However, such corresponding/complementary surfaces are old and well known in the art and provide various well known benefits including reducing play between the support and tool. Funke discloses one example of such complementary surfaces such as for tool 23. Therefore, it would have been obvious to provide such support surfaces on the device of Lindell to gain the well known benefits including that described above.

Regarding claims 14 and 20, such cylindrical surfaces for fixed tools are old and well known in the art and provide various well known benefits including simple manufacture. Winters discloses one example of such a cylindrical configuration for fixed tools. Therefore, it would have been obvious to provide such support surfaces on the device of Lindell to gain the well known benefits including that described above.

Regarding claims 18, 19 and 21, Lindell discloses a device with almost every structural limitation of the claimed invention including:

a striking unit (e.g., 20);

a tool housing (e.g., 25);

a damper unit (e.g., 53, 55);

a movable crosscutting tool (e.g., 26) and a fixed crosscutting tool (e.g., 27);

said tool housing comprising a solid base element with a horizontally extending circular recess for receiving said fixed crosscutting tool (e.g., as stated in the last Office action, Figures 2 and 3 show a recess into which tool 27 is received);

said recess having a supporting surface (e.g., a surface against which 27 abuts) with support material for withstanding impact acting in a transverse direction on said fixed crosscutting tool, the supporting surfaces being curved and having a radius, and

wherein, in the direction of impact, a material thickness of said solid base element measured from said supporting surface to an upper end surface of said base element (e.g., the topmost surface shown in Fig. 2, above numeral 36) is greater than a transverse material thickness of said base element (e.g., as stated in the previous Office action, the portion of the base element between 53 and the rightmost or leftmost side; or the portion of the base element measured from the cavity in which 57 is located to the rightmost side of the base element);

[claim 19] wherein an extent of said recess in a direction of impact is less than said material thickness in a direction of impact (e.g., as shown in Fig. 2).

Lindell lacks:

[portion of claim 18] wherein said fixed crosscutting tool has curved edge surfaces that are fitted into said recess of said base element, said curved edge surfaces having a substantially similar radius as said recess to assist in alignment of said tool device;

[claim 21] wherein said movable crosscutting tool has curved edge surfaces in contact with said recess of said base element, said curved edge surfaces having a substantially similar radius as said recess.

Regarding claim 18, such cylindrical surfaces for fixed tools are old and well known in the art and provide various well known benefits including simple manufacture. Winters discloses one example of such a cylindrical configuration for fixed tools. Therefore, it would have been obvious to provide such support surfaces on the device of Lindell to gain the well known benefits including that described above.

Regarding claim 20, Lindell discloses a movable cutting tool having curved surfaces but lacks corresponding curved surfaces on the tool support. However, such corresponding/complementary surfaces are old and well known in the art and provide various well known benefits including reducing play between the support and tool. Funke discloses one example of such complementary surfaces such as for tool 23. Therefore, it would have been obvious to provide such support surfaces on the device of Lindell to gain the well known benefits including that described above.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
June 9, 2008